

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

Laura Hoffman,

Plaintiff

V.

Southwest Gas Corporation,

Defendant

Case No.: 2:16-cv-02129-JAD-PAL

Order Construing Stipulation to Dismiss as a Motion to Amend Under FRCP 15(a) and Granting the Same

[ECF No. 29]

Plaintiff Laura Hoffman and defendant Southwest Gas Corporation filed a stipulation and proposed order to dismiss, with prejudice, Hoffman’s claims against Southwest Gas for: (Count II) employment discrimination based on disability; (Count III) violations of the Federal Labor Standards Act; (Count IV) retaliation; (Count VIII) tortious discharge; and (Count IX) intentional infliction of emotional distress.¹ But the parties cite no authority to support their joint request and Hoffman has alleged ten other claims against Southwest Gas that are still pending in this action. The Ninth Circuit has instructed that “Federal Rule of Civil Procedure 15(a) is the appropriate mechanism [when] ‘a plaintiff desires to eliminate an issue, or one or more but less than all of several claims, but without dismissing as to any of the defendants.’”² I therefore construe the parties’ dismissal stipulation as one to amend Hoffman’s complaint under FRCP 15(a)(2), and I grant it.

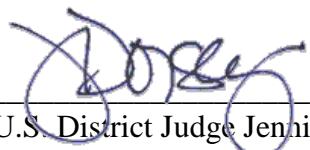
21 Accordingly, with good cause appearing, IT IS HEREBY ORDERED that the parties'
22 stipulation to dismiss some but not all of Hoffman's claims against Southwest Gas [ECF No.
23 29], which I construe as a stipulation under FRCP 15(a)(2) for Hoffman to amend her complaint,
24 is GRANTED. Hoffman has until **January 8, 2018**, to file a first amended complaint that does
25 not contain any of the claims that the parties agreed would be dismissed with prejudice.

27 | ¹ ECF No. 29.

²⁸ *Hells Canyon Preservation Council v. U.S. Forest Serv.*, 403 F.3d 683, 687–88 (9th Cir. 2005) (quoting *Ethridge v. Harbor House Restaurant*, 861 F.2d 1389, 1392 (9th Cir. 1988)).

1 Hoffman is cautioned that, in addition to **not** re-alleging the claims in Counts II, III, IV, VIII,
2 and IX of her original complaint, her first amended complaint also must **not** contain any new
3 claims or any new allegations to support her remaining claims.

4 Dated: December 29, 2017

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6 U.S. District Judge Jennifer A. Dorsey

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